REMARKS

Claims 1-20 are pending in the application of which claims 1, 15 and 18 are independent. In the Office Action[1] mailed September 11, 2007, the following actions were taken:

1) claims 1-14 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter;

2) claim 3 was rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention;

3) claims 1, 2 and 4-20 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Application Publication US 2004/0064731 A1, by Nguyen et al. (hereinafter "*Nguyen*"); and

4) claim 3 was rejected under 35 U.S.C. §103(a) as being unpatentable over *Nguyen*, in view of US Patent Application Publication 2003/0005111 A1, by Allan (hereinafter "*Allan*").

Applicant respectfully traverses all the objection and rejections listed above.

Specification

The amendment to the Specification corrects numbering errors. It also corrects informalities noted by the Examiner in the use of trademarks that are not owned by Applicant.

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[1] The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

Figures

The amendment to Figure 2 corrects one (1) labeling error.

In Figure 2 on the replacement drawing sheet, the "active component 260" is renumbered to be 270.

Claims

By this Amendment, Applicant also amends independent claim 1, 15, 18 and amends dependant claims 2-14 to improve readability and to more appropriately define Applicant's invention.

35 U.S.C. §101 Rejection

In the Office Action, claims 1-14 were rejected under 35 U.S.C. §101, stating that the claimed invention is directed to non-statutory subject matter. Applicant disagrees with the rejection under 35 U.S.C. §101. However to expedite the prosecution, Applicant has amended claims 1-14 to call for "a computer program storage product." Thus, claims 1-14 even more clearly define statutory subject matter.

For these reasons, Applicant respectfully requests the rejection under 35 U.S.C. §101 of claims 1-14 to be withdrawn.

35 U.S.C. §112(e) Rejection

In the Office Action, claim 3 was rejected under 35 U.S.C. §112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant disagrees with the rejection under 35 U.S.C. §112. However, to expedite the prosecution, Applicant has amended claim 3 to call for "executable code."

For this reason, Applicant requests the rejection under 35 U.S.C. §112 of claim 3 to be withdrawn.

35 U.S.C. §102(e) Rejection

In the Office Action, claims 1, 2 and 4-20 were rejected under 35 U.S.C. §102(e) as being anticipated by *Nguyen*. To properly establish that a prior art reference anticipates a claimed invention under 35 U.S.C. §102, each and every element of the claims in issue must be found, either expressly described or under principles of inherency, in the single prior art reference.

Applicant respectfully traverses the rejection of claims 1, 2, and 4-20 since *Nguyen* fails to teach each and every element of these claims. For example, *Nguyen* does not disclose at least the following element found in claim 1: "**integrate the second trace output with the first trace output** to generate the integrated trace output file having the first trace output appended to the second trace output" (emphases added). The Office Action cites para. 0054 to demonstrate that *Nguyen* discloses combining trace outputs, implying that *Nguyen*'s aggregation is equated with combining trace outputs. See Office Action at 7. However, nowhere in *Nguyen*'s para. 0054 or elsewhere in *Nguyen*, is there a suggestion to "integrate the second trace output with the first trace output to generate the integrated trace output file having the first trace output appended to the second trace output." as recited in claim 1.

Applicant respectfully points out that *Nguyen*'s para. 0054 discloses the aggregation process in its Security Administrator system, in which associated events are aggregated into a single event. In the Office Action, it is asserted that this constituted as teaching "integrating trace outputs." However, this is not correct. *Nguyen* clearly states that correlation and aggregation is used when a series of events is judged to be similar and, when the event is suitable for aggregation, multiple events are made into a single event. See *Nguyen* at para. 0032 and 0054. "Aggregating multiple events into a single event" is not the same as "integrating trace outputs" since aggregation eliminates events and reduces the number of events, but integration as claimed by Applicant does not alter the number of trace outputs. Applicant's application discloses, "In one example, the client-side trace outputs and the server-side trace outputs are integrated in chronological order to generate a single trace output file." See Spec at 8. To form an integrated chronological trace output file, the trace output

manager appends the client-side trace outputs to the server-side trace outputs. In so doing, the application developer can view a single trace output file to determine the instructions execution sequence first at the server, then the client device, then back at the server and so on. See Spec at 9. In other words, the single trace output file consists of all the trace outputs from the client-side and the server-side. The "integration" in the Applicant's application does not reduce the plurality of trace outputs or combine multiple trace outputs into one trace output.

Therefore, nowhere in *Nguyen* at para. 0054, or elsewhere in *Nguyen*, is there a suggestion to **integrate** the second trace output with the first trace output to generate the integrated trace output file. As such, the cited portions of *Nguyen* cannot teach or suggest, "integrate the second trace output with the first trace output to generate the integrated trace output file having the first trace output appended to the second trace output," as recited in claim 1.

For at least this reason, claim 1 is allowable under 35 U.S.C. §102(e). For at least the reason stated above with respect to claim 1, claims 15 and 18, which recite similar elements and were rejected under the same rationale, are allowable under 35 U.S.C. §102(e). See Office Action at 8. Additionally, claims 2, 4-14, 16, 17, 19 and 20 are also allowable at least since they depend directly or indirectly from claims 1, 15 and 18.

For these reasons, Applicant's claims are patentably distinct from *Nguyen*. Applicant respectfully requests the rejection under 35 U.S.C. §102(e) of independent claims 1, 15, 18 and claims 2, 4-14, 16, 17, 19, 20 which depend therefrom, to be withdrawn.

Rejection under 35 U.S.C. §103

Applicant respectfully traverses the rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over *Nguyen* in view of *Allan*. A *prima facie* case of obviousness has not been established.

"The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. . . . [R]ejections

on obviousness cannot be sustained with mere conclusory statements." M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art." M.P.E.P. § 2143.01(III) (emphasis in original). "In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. M.P.E.P. § 2141.02(I) (emphases in original).

"[T]he framework for objective analysis for determining obviousness under 35 U.S.C. 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 U.S.P.Q 459 (1966). . . . The factual inquiries . . . [include determining the scope and content of the prior art and] . . . [a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). "Office personnel must explain why the difference(s) between the prior art and the claimed invention would have been obvious to one of ordinary skill in the art." M.P.E.P. § 2141(III).

Here, a *prima facie* case of obviousness has not been established because the Examiner has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the claimed invention and the prior art. Accordingly, the Examiner has failed to clearly articulate a reason why the prior art would have rendered the claimed invention obvious to one of ordinary skill in the art.

The rejection of claim 3 was based on the assertion that sending JavaScript™ in browser code is well known in the art and therefore, it would have been obvious to one having ordinary skilled in the art at the time the invention was made to modify *Nguyen*'s system, using the teaching of *Allan*, because one would understand that monitoring service time in a network of devices would trigger an event rule should the system not be properly operating. See Office Action at 15-17.

Nguyen does not teach, disclose or suggest the feature recited in claim 3, namely "providing the agent for detecting an event at the second computing device with instructions to employ executable code." The Office Action confirms this. See Office

Action at 15. Claim 3 depends indirectly from claim 1, and thus includes all the elements and limitations thereof. As set forth above with respect to claim 1, *Nguyen* fails to teach or suggest that "integrating the second trace output with the first trace output to generate the integrated trace output file having the first trace output appended to the second trace output." *Allan* also does not teach, disclose or suggest the feature "integrating the second trace output with the first trace output to generate the integrated trace output file having the first trace output appended to the second trace output," featured in claim 1. The system in *Allan* involves analyzing time for responding to service. See *Allan* at para. 0029. *Allan* does not address trace outputs, let alone integrating trace outputs. Nowhere in *Allan* is there any suggestion of integrating trace outputs to generate a trace output file having the first trace output appended to the second trace output. Therefore, *Allan* does not suggest or teach the feature recited above.

Therefore, whether or not instructions to employ executable code were disclosed in *Allan*, and whether or not sending JavaScript™ in browser code for communication protocol comprises an obvious feature, incorporating these features into *Nguyen* would not result in the invention recited in claims 3 as a whole. Moreover, one of ordinary skill in the art would not find it obvious to modify *Nguyen*, using the teachings of *Allan* to achieve the required combination by claim 3.

For at least these reasons, a *prima facie* case of obviousness with respect to claim 3 has not been proved. The rejection of claim 3 under 35 U.S.C. §103 as being obvious from *Nguyen* in view of *Allan* is thus improper and should be withdrawn.

Conclusion

In view of the foregoing remarks, Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims. Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: _____11-28-07_____ By:_____

Maura K. Moran
Reg. No. 31,859

for: Jeffrey A. Berkowitz
Reg. No. 36,743